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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,997	01/16/2002	Michael Wayne Brown	AUS920010746US1	6351
7590 Cynthia S. Byrd International Business Machines Intellectual Property Law 11400 Burnet Road Austin, TX 78758			EXAMINER BARTLEY, KENNETH	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 06/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/046,997	Applicant(s) BROWN ET AL.	
	Examiner Kenneth L. Bartley	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office Action is issued in response to the Applicant's amendment filed on April 9, 2007.

#### ***Response to Amendment***

No claims have been amended. Claims 1-19 are currently pending and provided to be examined upon their merits.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection. The Examiner did carefully review the arguments presented by the Applicant and thanks the Applicant for their response.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 recites the limitation "the location of the communication device" in line 5 and "the location of the transaction" in line 7. There is insufficient antecedent basis for

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these limitations in the claim. A location of the communication device or a location of the transaction is not determined in any of the steps. For example, it is not clear that a device ID is used to find a location of a communication device. This is also true for Claims 8 and 14.

6. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: finding a location of the transaction is not in a proper order, one would expect to determine a location of the transaction after receiving a transaction; using the device ID to find a location of a communication device appears to be missing. This is also true for Claims 8 and 14.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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9. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,612,488 to Suzuki in view of Pub. No.: US 2001/0051920 to Joao et al..

**Note that the analysis for the method claims (1-7) also applies to the respective system claims (8-13) and product claims (14-19).**

Regarding claims 1, 8 and 14:

Method for authorizing transactions against an account comprising:

**Suzuki discloses:**

**Fig. 4, ref. 400 provides a "Transaction Authorization Computer" which has access to card information, ref. 432, which includes a card number. The card number would identify an individual account, as shown in Fig. 5.**

receiving a transaction comprising a request for authorization to charge an amount against the account;

**"Upon receiving a request for credit administration from the member store transaction terminal 300, the transaction processor 420 of the transaction authorization computer searches the database with the card number, checks for a "report of loss or theft", and compares the transaction amount with the amount available for purchases..." (col. 11, lines 58-65).**

retrieving a communication device ID for a device associated with the account;

**a "... cellular phone 100 registered in the card transaction system has a location information detection function." (col. 11, lines 32-35). The registered cellular phone is therefore a communication device with an ID.**

determining the location of the communication device;

**"In the present embodiment, the cellular phone system, including wireless network 600, provides a location information detection service. Wireless network 600 comprises a location information host computer for detecting the location of cellular phone 100. Location detection uses, for example, a method of finding the current location from the relative positions of cellular phone 100 and three base stations, such as are used in PHS (Personal Handyphone System), or a method of finding the current location with a GPS (Global Positioning Satellite) system using artificial satellites." (col. 11, lines 39-49).**

determining the location of the transaction;

**"The location information host computer detects the current location information for the cellular phone in response to the detection request from transaction authorization computer 400." (col. 12, lines 14-17);**

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comparing the location of the transaction with the location of the device; and  
"Transaction authorization computer 400 then compares this information with the current location information for the cellular phone and calculates the distance." (col. 12, lines 29-31).

processing the request.

"When the results of the credit administration request are that "card use is allowed", transaction terminal 300 continues with the transaction processes, such as the issuing of the bill, using the received transaction authorization number and the user validation process." (col. 12, lines 43-48).

While Suzuki, in the business of credit authorization, provides for using wireless means to detect fraud, and provides detail information for various system and product components, he does not provide details, for example, of a generic point-of-sale device, central processing computer, or a communication device. Joao et al., in the same field of endeavor of providing credit authorization using wireless means, provides such detail as a generic point-of-sale device, central computer, and a communication device (Fig. 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide such a system and product components, motivated by Joao et al., and that such a system could be used to provide, for example, location information to generic communication devices and would therefore expand the capabilities of the system and components.

#### Regarding claims 2, 9, 15

The method of claim 1 further comprising denying the request when the location of the transaction is different from the location of the device.

##### Suzuki discloses:

"Transaction authorization computer 400 then compares this information with the current location information for the cellular phone and calculates the distance.... If the distance is greater than 10 m, it is determined that this is fraudulent use of the card." (col. 12, lines 29-37).

#### Regarding claims 3, 10, and 16

The method of claim 1 further comprising authorizing the request when the location of the transaction is the same as the location of the device.

##### Suzuki discloses:

"Transaction authorization computer 400 then compares this information with the current location information for the cellular phone and calculates the distance. In the present embodiment, if the distance between these locations is within 10 m, for example, it is determined that the person

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carrying the registered cellular phone is at member store 3000 and that the credit card user is a valid user." (col. 12, lines 29-37)

Regarding claims 4 and 11:

The method of claim 1 wherein the request for authorization is received at a merchant location.

Suzuki discloses:

Figure 1 provides a member store location with a card transaction terminal. Also...

"Upon receiving a request for credit administration from the member store transaction terminal 300, the transaction processor 420 of the transaction authorization computer searches the database with the card number, checks for a "report of loss or theft"..." (col. 11, lines 58-65).

Regarding claims 5, 12, and 17

The method of claim 1 further comprising validating the account.

Suzuki discloses:

"Upon receiving a request for credit administration from the member store transaction terminal 300, the transaction processor 420 of the transaction authorization computer searches the database with the card number, checks for a "report of loss or theft"..." (col. 11, lines 58-65).

Regarding claims 6, 13, and 18:

The method of claim 1 further comprising determining whether the transaction is within a predefined credit limit.

Suzuki discloses:

"... and compares the transaction amount with the amount available for purchases calculated by subtracting the "amount paid by card (this month)" from the credit or purchase limit per month.'" (col. 11, lines 58-65).

Regarding claims 7 and 19:

The method of claim 1 further comprising substituting the location of the transaction with a predefined location.

Suzuki discloses:


"Transaction authorization computer 400 receives the results of the cellular phone location information detection, and, when the location information could be successfully acquired, the computer searches the member store information, stored in the database based on the member store number, for the location information in latitude and longitude format for the member store." (col. 12, lines 22-29).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth L. Bartley whose telephone number is (571) 272-5230. The examiner can normally be reached on Monday through Friday, 8:00 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jagdish Patel can be reached on (571) 272-6748. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JAGDISH N. PATEL  
PRIMARY EXAMINER